

REMARKS

The foregoing amendments are presented in order to place this application in better condition for further examination. Specifically, in order to narrow the issues and avoid distraction, the new claims do not refer to functional porosity. Claim 53 refers to the gripping element being in the martensitic phase when the element is gripped to deform the gripping element and states that the gripping element requires to be heated to a temperature above the martensite to austenite phase transition temperature to return the gripping element to the non-deformed condition. Similar limitations have been included in an independent method claim 64, which states positively that the method comprises gripping an article when the gripping element is at a temperature below the martensite to austenite phase transition temperature. Since Bendel et al does not suggest that the insert should be heated in order to return the insert to its original shape, the clear implication is that the nitinol of the insert is in the superelastic form, not the shape memory form.

Respectfully submitted,



John Smith-Hill
Reg. No. 27,730

SMITH-HILL & BEDELL, P.C.
12670 NW Barnes Road, Suite 104
Portland, Oregon 97229

Tel. (503) 574-3100
Fax (503) 574-3197
Docket: SWIN 2012
Postcard: 05/04-20

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